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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,219	02/18/2004	Floyd Backes	160-027	1936
34845 7590 07/27/2007 McGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER TRINH, TAN H	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,219

Applicant(s)

BACKES ET AL.

Examiner

TAN TRINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shpak (U.S. Patent No. 6,907,229) in view of Saints (U.S. Patent No. 6,374,085).

Regarding claim 1, Shpak teaches a method for use by a station (MS 24, 29 and 31) capable of communicating via an access point (AP 22-23, 25 and 27) in a wireless communications network via a radio frequency channel (see fig. 1, access points (AP) 22-23, 25 and 27, communication with multiple mobile stations 24, 29 and 31), comprising the steps of: receiving a message from an access point (see col. 6, lines 24-40, and lines 61-65, col. 7, lines 5-18), But Shpak does not mention receiving a message containing information indicative of an amount by which to attenuate transmit power and adjusting transmit power by the indicated of an amount in response to the information in the message.

However, Saints teaches MS (12) receiving a message containing information indicative of an amount by which to attenuate transmit power and adjusting transmit power by the indicated of an amount in response to the information in the message (see fig. 4, and 2B, col. 3, lines 12-26, and col. 5, lines 4-33, and col. 6, lines 25-46). In this case, the MS (12) received the TPC message from BS (14) with amount indicates a total decrease value -2 dB of the attenuate on the

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decrease messages, and MS (12) with power control processor 28 adjusts power level signal in response thereto.

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify above teaching of Shpak with Saints, in order to provide the accurately adjust the transmission power of the signals (see suggested by Saints on col. 2, lines 5-7).

Allowable Subject Matter

3. Claim 5 is allowed.

4. Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for allowance

5. The following is an examiner's statement of reasons for allowance:

Regarding independent claim 5 and dependent claim 2, Shpak teaches the power control message (TPC) and Saints teaches receiving a message containing information indicative of an amount by which to attenuate transmit power and adjusting transmit power by the indicated of an amount in response to the information in the message (see fig. 4, and 2B, col. 3, lines 12-26, and col. 5, lines 4-33, and col. 6, lines 25-46. However, Shpak and Saints alone or in combination with other prior art of record, fail to disclose Mobile station *receiving a message from an access point, the message containing a transmit power back off level that indicates how far the access point's power has been reduced*; adjusting transmit power by setting the station's transmit power to the transmit back off level received in the message; and *transmitting messages to other*

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devices in the wireless communications network, the messages including a power back-off level indicative of the amount by which the station's transmit power has been adjusted as specified in independent claim 5 and dependent claim 2.

Conclusion

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for Technology Center 2600 only)

*Hand-delivered responses should be brought to the Customer Service Window (now located at the **Randolph Building, 401 Dulany Street, Alexandria, VA 22314**).*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Anderson, Matthew D., can be reached at (571) 272-4177.

The fax phone number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh
Division 2618
July 21, 2007

PATENT EXAMINER
TRINH, TAN

A handwritten signature in black ink, appearing to read 'Tan H. Trinh', is written over a horizontal line.